

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
WILMINGTON DIVISION**

IN RE:

**BRIAN RICHARD YORK,

DEBTOR**

**CASE NO. 11-04507-8-JRL
CHAPTER 13**

RESPONSE TO MOTION FOR RELIEF FROM STAY

NOW COMES the Debtor, by and through counsel, and responding to the Motion for Relief from Automatic Stay or in the Alternative Adequate Protection filed by Select Portfolio Servicing Servicer for U.S. Bank National Association, as Trustee, as successor-in-interest to Bank of America, N.A., as Trustee, as successor by merger to LaSalle Bank National Association, as Indenture Trustee for the holders of the Accredited Mortgage Loan Trust 2005-3 Asset ("Select Portfolio"), objects to the relief sought therein and respectfully requests a hearing thereon.

In support hereof, the Debtor shows unto the Court as follows:

1. Select Portfolio does not have standing to prosecute the current motion. It has not provided a copy of the servicing agreement under which it purports to have the authority to prosecute this motion.
2. Select Portfolio, furthermore, has not provided the trust documents under which U.S. Bank National Association has purported authority as Trustee to prosecute the current motion.
3. No assignments have been presented relating to the purported assignment of the 'Accredited Mortgage Loan Trust 2005-3 Asset Backed Notes' from the original note holder to Select Portfolio. The allonge attached to the current motion is undated, and its validity appears to be questionable.
4. Select Portfolio, and/or U.S. Bank National Association as Trustee do not have a valid lien against the "Property" listed in its motion.
5. Select Portfolio should also be denied adequate protection as the scheduled value of the Property is \$625,000.00, and the amount it claims is owed is \$569,192.07; thus leaving enough of an 'equity cushion' to protect its purported interests.

WHEREFORE, the Debtor respectfully requests that this Court deny the motion of Select Portfolio, for a hearing thereon, and for such other and further relief the Court deems just and proper.

Dated: August 2, 2011

BUTLER & BUTLER, L.L.P.

/s/ Richard P. Cook

Richard P. Cook

Attorneys for the Debtor(s)

NC State Bar No. 37614

PO Box 38

Wilmington, NC 28402

Telephone (910) 762-1908

Facsimile (910) 762-9441

CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury that he is over eighteen (18) years of age, and that the

RESPONSE TO MOTION FOR RELIEF FROM STAY

in the above captioned case was this day served upon the below named persons as follows:

By electronic service through CM/ECF:

Robert R. Browning
Chapter 13 Trustee
PO Box 8248
Greenville, NC 27835

Select Portfolio Servicing
Kimberly A. Sheek, counsel of record
Shapiro & Ingle, L.L.P.
10130 Perimeter Parkway, Suite 400
Charlotte, NC 28216

By mailing, postage prepaid, first class mail, or by certified mail return receipt requested if indicated below, or by facsimile if indicated below, of a copy of such instrument to such persons, parties and/or counsel at the address shown below:

Brian Richard York
310 N. Front Street, #4-261
Wilmington, NC 28401

Dated: August 2, 2011

BUTLER & BUTLER, L.L.P.

/s/ Richard P. Cook
PO Box 38
Wilmington, NC 28402
(910) 762-1908